

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

THE HIPSAVER COMPANY, INC.,

Plaintiff,

v

J.T. POSEY COMPANY,

Defendant.

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) Civil Action No. 05-10917 PBS
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**HIPSAVER’S OPPOSITION TO POSEY’S FIFTH MOTION *IN LIMINE* FOR
ORDER PRECLUDING EXPERT TESTIMONY BY EDWARD GOODWIN**

Under the guise of a motion *in limine* to exclude “expert testimony” from Plaintiff’s President, Mr. Goodwin, Posey seeks to severely limit Mr. Goodwin’s fact testimony. Such a limitation is not permissible and Posey’s motion should be denied.

Mr. Goodwin is not offered as an expert in this case. Mr. Goodwin was not designated as an expert nor will his testimony be presented as expert testimony. Mr. Goodwin is the inventor of the HipSaver product and the President and co-owner of The HipSaver Company. He has practical experience and first hand knowledge with respect to the research and development, design and manufacture of the HipSaver device as well as the launderability of the HipSaver device. Furthermore, as President of HipSaver, Mr. Goodwin communicates regularly with HipSaver’s customers or potential customers about those customers’ needs, use of hip protector garments, compliance, and laundering practices. Furthermore, Mr. Goodwin is personally involved with, and has first hand knowledge of, the laboratory and clinical testing of the HipSaver product. To the extent

that Mr. Goodwin offers testimony relating to these subjects, such testimony is fact testimony based on first hand knowledge and is admissible.

Posey's attempt to preclude Mr. Goodwin from offering fact testimony based on first hand knowledge under the pretext that such testimony constitutes "expert testimony" is impermissible and its motion should be denied.

Respectfully submitted
The HipSaver Company, Inc.
By its Attorneys,

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CERTIFICATE OF SERVICE

I certify that this document has been filed through the Electronic Case Filing System of the United States District Court for the District of Massachusetts and will be served electronically by the court to the Registered Participants identified in the Notice of Electronic filing.

/s/ Courtney M. Quish
Courtney M. Quish

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